

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

CARLTON BUCKLEY, #10402-018,)	
)	
Plaintiff,)	Civil Action No. 4:05-3235-TLW
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES GOVERNMENT,)	
)	
Defendant.)	
_____)	

Plaintiff is a federal prisoner. He characterizes this claim as one pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671 et al. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that this complaint be dismissed without prejudice, but that the dismissal be deemed a “strike” for purposes of 28 U.S.C. § 1915(g). The Report is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C.

The Magistrate Judge makes only a recommendation to this Court. The responsibility to make a final determination remains with the Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed his Report on April 24, 2006. Plaintiff failed to file objections. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object

waives appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that this complaint be **DISMISSED** without prejudice, but that the dismissal be deemed a “strike” for purposes of 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

September 7, 2006
Florence, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.